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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,639	02/23/2004	Christopher Tesluk	1832K US	8172
54964 7590 03/14/2008 TYCO HEALTHCARE - EDWARD S. JARMOLOWICZ 15 HAMPSHIRE STREET MANSFIELD, MA 02048				
EXAMINER				
ROST, ANDREW J				
ART UNIT		PAPER NUMBER		
3753				
MAIL DATE		DELIVERY MODE		
03/14/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/784,639

Applicant(s)

TESLUK ET AL.

Examiner

Andrew J. Rost

Art Unit

3753

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 7, 9, 10, 12 and 21-25 is/are pending in the application.
- 4a) Of the above claim(s) 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 7, 9, 10, 12 and 21-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to the amendment filed 2/7/2008. Claims 2-6, 8, 11 and 13-20 have been canceled. No claims are currently amended. No claims have been newly added. Presently, claims 1, 7, 9, 10, 12 and 21-25 are pending with claim 25 being withdrawn.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 7, 9, 10 and 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Hopson (5,881,769).

Regarding claim 1, Hopson discloses a coupling having a first connector (29 in fig. 2) having an orifice (27) with a plunger (check valve 15) located within the orifice, a second connector (30 in fig. 3) with the plunger being held in a first position (opened) when a pressure is supplied to coupling (shown in fig. 8) and a second position (closed) wherein the plunger contacts a valve seat in the orifice and with the presence of a bleed port (31) to allow flow to continue through the plunger when the plunger is in the second position.

In regards to claim 7, Hopson discloses a cap portion (narrowing portion of 14 that acts as a valve seat for the plunger) that limits the movement of the plunger.

In regards to claim 9, Hopson discloses the second connector having a locking arm (6) that locks the first connector to the second connector with the use of a snap ring (2).

In regards to claim 10, Hopson discloses the first connector having a slot (space between 7 and 14) for receiving the locking arm of the second connector and a groove (11) for receiving the snap ring (2).

In regards to claim 21, Hopson discloses a spring (16) and a seal located on the plunger to form a seal.

In regards to claim 22, Hopson discloses the plunger to be biased into an opened position when in the first position and a sufficient pressure is supplied.

In regards to claim 23, Hopson discloses the valve having a slot therein (bleed port 31).

In regards to claim 24, Hopson discloses the plunger having a slot (bleed port 31) and the valve seat having a slot (opening in the middle of the valve seat to allow fluid flow).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 7, 9, 10, 12 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Summerville (2,628,850) in view of Fross et al. (6,394,131).

Regarding claim 1, Summerville discloses a fluid connector apparatus having a first connector (10) and a second connector (36) with the first connector and second connector having a first position (first position shown in top half of fig. 1) and a second position (second position shown in bottom half of fig. 1) with the first connector having an orifice (24) that houses a valve (25). Summerville does not disclose that the second position does not close the orifice to fluid flow but reduces the fluid flow. However, Fross et al. teach the use of a bleed port through the valve member in order to provide a condition for preventing valve member locking due to excess pressure (col. 3, lines 53-57). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the valve of Summerville with an auxiliary port as taught by Fross et al. in order to provide a condition for preventing valve member locking due to excess pressure.

In regards to claims 9 and 10, Summerville discloses the claimed invention except for locking arm extending from the second connector and a slot in the first connector to receive the locking arm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to place the locking arm (currently extending from the first connector as disclosed in Summerville) on the second connector and to place the corresponding slot (currently on the second connector as disclosed in Summerville) on the first connector, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art.

In regards to claim 12, Summerville discloses the second connector to have an engagement portion (42) that contacts the valve of the first connector when the first and second connectors are mated.

In regards to claims 21, 22 and 7, Summerville discloses a biasing member of a spring (26); wherein the valve is in the opened position when the connectors are in the first position; wherein a cap portion (32) limits the motion of the valve.

In regards to claim 23, Summerville discloses the valve to have a slot (openings 29).

In regards to claim 24, the modified Summerville reference discloses a plunger (valve 25) and the valve seat having a slot (opening in which the valve seats).

Response to Arguments

6. Applicant's arguments filed 2/7/2008 have been fully considered but they are not persuasive.

Applicant's arguments regarding the 102(b) rejection of the Hopson (5,881,769) reference on pages 6-8 are not persuasive. Applicant argues the Hopson reference does not allow a fluid flow when the first adapter (29) and a second adapter (30) are disconnected. However, the Hopson reference discloses a bleed port (31) in a check valve (15) with the bleed port being unobstructed when the first adapter (8) and he second adapter (9) are disconnected (first adapter is shown in a disconnected position in fig. 2). Further, the Hopson reference discloses the check valve (15) being in a first position (fig. 8) and a second position (first adapter is shown in a disconnected position

in fig. 2) wherein the check valve (15) in the second position contacts a valve seat (inner surface of inclined surface 14) with the bleed port (31) being unobstructed. Therefore, the Hopson reference discloses the check valve (15) to substantially reduce but not closing the fluid orifice (27) to fluid flow.

Applicant's arguments regarding the 103(a) rejection of Summerville (2,628,850) in view of Fross et al. (6,394,131) on pages 8-10 are not persuasive. Applicant argues the Fross et al. reference does not allow a flow through the port (89). However, the Fross et al. reference teaches a bleed port (89) in a poppet (87) with the bleed port being unobstructed when a first connector (83) and a second connector (55) are disconnected. Further, the Fross et al. reference teaches the use of the bleed port (87) in order to provide a condition for preventing the valve member from locking due to an excess of pressure (col. 3, lines 53-57). Therefore, providing the fluid connector of the Summerville reference with a bleed port as taught by the Fross et al. reference provides a condition for preventing the valve member from locking due to an excess of pressure. The modified Summerville reference provides a valve that substantially reduces but not closing the fluid orifice to a fluid flow when the first connector (10) is disconnected from the second connector (36).

Further, the recitation of "for approximating the pneumatic behavior of the detached compression sleeve at the second connector" is a recitation of intended use. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from

a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Rost whose telephone number is 571-272-2711. The examiner can normally be reached on 7:00 - 4:30 M-Th and 7:00 - 12:00 Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3753

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. J. R./
Examiner, Art Unit 3753
February 29, 2008

/Ramesh Krishnamurthy/
Primary Examiner, Art Unit 3753